

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

ROBERT SOSA RODRIGUEZ
ADC # 128024

PLAINTIFF

V.

5:07CV00144 SWW/HDY

ERNEST GOLDEN, Jail Administrator,
Arkansas County Detention Center

DEFENDANT

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

INSTRUCTIONS

The following recommended disposition has been sent to United States District Court Judge Susan Webber Wright. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.

2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite 402
Little Rock, AR 72201-3325

DISPOSITION

Plaintiff, an inmate at the Varner Unit of the Arkansas Department of Correction, filed this action pursuant to 42 U.S.C. § 1983 on June 14, 2007 (docket entry #2). Plaintiff’s Complaint alleged various claims related to conditions at the Arkansas County Jail: unsanitary conditions, flooding, mistakes in dispensing medications, and the lack of legal research materials. *In forma pauperis* status was granted to Plaintiff on June 22, 2007, and the Court lost contact with him shortly thereafter. When Plaintiff notified the Court of his change of address to the Varner Unit, another order was entered directing him to submit an Amended Complaint that explained how Defendant Golden was responsible for the injury that Plaintiff claimed. This Order was entered on September 24, 2007 (docket entry #7); since that time the Court has had no further communication from Plaintiff.

Local Rule 5.5(c)(2) provides that if any communication from the Court to a *pro se* litigant is not responded to within thirty days, the case may be dismissed without prejudice. More than thirty days have passed and the Court has received no response from the Plaintiff. Under these circumstances, the undersigned concludes that this case should be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2) and failure to prosecute. *See Miller v. Benson*, 51 F.3d 166, 168 (8th Cir. 1995) (“District courts have inherent power to dismiss *sua sponte* a case for failure to prosecute, and we review the exercise of this power for abuse of discretion.”)

CONCLUSION

IT IS THEREFORE RECOMMENDED that Plaintiff’s cause of action be dismissed without prejudice.

. DATED this 31 day of October, 2007.



UNITED STATES MAGISTRATE JUDGE